

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

January 28, 1997

Nashville, Tennessee

**IN RE: UNITED TELEPHONE-SOUTHEAST, INC.  
APPLICATION FOR A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY TO PROVIDE INTERLATA  
INTEREXCHANGE TELEPHONE SERVICE**

**DOCKET NO. 96- 01235**

**ORDER REGARDING RECONSIDERATIONS FROM DECEMBER 17, 1996**

On November 12, 1996, the Tennessee Regulatory Authority (the "Authority") entered its Order Regarding the Conditions Under Which United Telephone-Southeast, Inc. Shall Be Approved for a Certificate of Public Convenience & Necessity (the "November 12 Order"). In the November 12 Order, the Authority found 1) that United Telephone-Southeast, Inc. ("UTSE") had to submit a reasonable plan regarding implementation of One-Plus intraLATA presubscription ("intraLATA toll dialing parity") to the Authority by no later than November 29, 1996, 2) that the Authority would approve, deny, or modify such plan as soon as possible after its submission, and 3) that, upon approval of UTSE's plan regarding implementation of intraLATA toll dialing parity, the application of UTSE for a certificate of public convenience and necessity to provide interLATA interexchange telephone service was to be considered approved.

On November 22, 1996, AT&T Communications of the South Central States, Inc. ("AT&T"), the intervenor in this matter, filed its Petition for Reconsideration of the November 12 Order (the "AT&T Petition"). AT&T requested that the Authority reconsider the November 12 Order and enter a new order expressly requiring UTSE to provide toll dialing parity in all central offices prior to the approval of UTSE's application.

AT&T maintained that this was a part of the motion made and approved by the Directors at the Conference held on October 15, 1996.

Also on November 22, 1996, UTSE filed its Petition for Partial Reconsideration (the "UTSE Petition"). UTSE requested that the Authority change the effect of the November 12 Order from not allowing UTSE to provide *any* interLATA interexchange telephone service until after it files, and the Authority approves, an intraLATA toll dialing parity plan, to allowing UTSE to provide dedicated or private line interLATA interexchange service.

After due consideration, the Directors unanimously reached a decision to deny the AT&T Petition and to grant the UTSE Petition.

**IT IS THEREFORE ORDERED:**

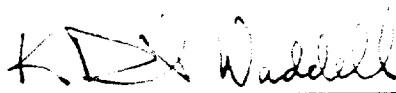
1. That the AT&T Petition be, and hereby is, denied.
2. That the UTSE Petition be, and hereby is granted.
3. That the November 12 Order, attached hereto as Exhibit "A" and incorporated herein by reference, be, and hereby is, amended and restated as follows:

Paragraph 2 shall read "[t]hat prior to the submission and approval of UTSE's plan, UTSE shall be granted a limited certificate to provide interLATA interexchange services on a dedicated, non-switched basis. Upon approval of UTSE's plan regarding implementation of intraLATA toll dialing parity, the application of UTSE for a full certificate of public convenience and necessity to provide interLATA interexchange telephone service, on both a dedicated, non-switched basis and a switched basis, is approved."

4. That any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.

5. That any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.

ATTEST:

  
\_\_\_\_\_  
EXECUTIVE SECRETARY  
utplan2.doc

  
\_\_\_\_\_  
CHAIRMAN

  
\_\_\_\_\_  
DIRECTOR

  
\_\_\_\_\_  
DIRECTOR

EXHIBIT "A"

BEFORE THE TENNESSEE REGULATORY AUTHORITY

November 12, 1996

Nashville, Tennessee

IN RE: UNITED TELEPHONE-SOUTHEAST, INC.-APPLICATION FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY TO PROVIDE  
INTERLATA INTEREXCHANGE TELEPHONE SERVICE

DOCKET NO. 96-01235

ORDER REGARDING THE CONDITIONS UNDER WHICH UNITED  
TELEPHONE-SOUTHEAST, INC. SHALL BE APPROVED FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

A hearing was held in the above-captioned matter on September 17, 1996, in the hearing room of the Tennessee Regulatory Authority (the "Authority"), 460 James Robertson Parkway, Nashville, Tennessee beginning at approximately 10:00 a.m. before Chairman Lynn Greer, Director Melvin Malone, and Director Sara Kyle. The Authority reached a decision in the matter at a Conference held on October 15, 1996, in the hearing room at 460 James Robertson Parkway, Nashville, Tennessee.

The following appearances were entered at the hearing on September 17, 1996:

James B. Wright, Esquire, Senior Attorney, 14111 Capital Blvd., Wake Forest, North Carolina 27587, appearing on behalf of United Telephone-Southeast, Inc. ("UTSE").

John Knox Walkup, Esquire, Gullett, Sanford, Robinson & Martin, 230 Fourth Avenue, N., 3rd Floor, P.O. Box 198888, Nashville, Tennessee 37219-8888 and James Lamoureux, Esquire, 1200 Peachtree Street, Atlanta, Georgia 30309, appearing on behalf of AT&T Communications of the South Central States, Inc. ("AT&T"), the intervenor in this matter.

## FACTS

1. On August 9, 1996, UTSE submitted its Application for a Certificate of Public Convenience and Necessity to Provide interLATA, interexchange telephone services to end users in the State of Tennessee.
2. On August 22, 1996, the Authority notified UTSE and other interested parties that a hearing had been set in this matter for September 17, 1996.
3. On August 30, 1996, AT&T filed its Petition for Leave to Intervene in this matter and on September 10, 1996, AT&T was allowed to intervene.
4. Also on September 10, 1996, Charles S. (Steve) Parrott filed direct testimony on behalf of UTSE and Richard Guepe filed direct testimony on behalf of AT&T.
5. At the hearing on September 17, 1996, both Mr. Parrott and Mr. Guepe gave testimony and were cross-examined. Mr. Parrott agreed that UTSE would implement One-Plus intraLATA presubscription or intraLATA toll dialing parity by no later than August 8, 1997. As a first step toward implementation, he further agreed that UTSE would file a plan for phased-in implementation with the Authority by no later than November 29, 1996, and would act in good faith to implement the plan as quickly as possible. Mr. Guepe argued that the law of the State of Tennessee required that UTSE provide toll dialing parity "promptly", which he interpreted as meaning prior to August 8, 1997.
6. At the conclusion of the hearing, the Directors asked for additional information from the applicant and also asked AT&T if it needed or wanted to respond to the information

after it was submitted. AT&T indicated that it did not foresee the need to respond but would do so, if necessary, as quickly as possible.

7. On September 27, 1996, UTSE filed its Late-Filed Exhibit addressing 1) the accounting safeguards that would be applicable to UTSE's interLATA interexchange operation, and 2) the price regulation plan under which the interexchange operation would be governed. AT&T did not file a response thereto.

Based upon the application and the attachments thereto and other information provided by the parties in writing and at the hearing, all of which demonstrate compliance with the requirements of T.C.A. § 65-4-201, after due consideration the Directors unanimously reached a decision.

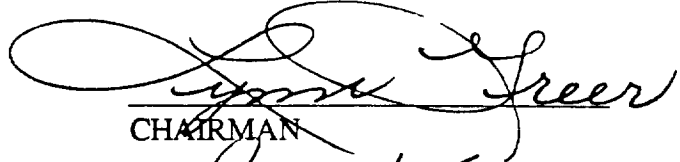
**IT IS THEREFORE ORDERED:**

1. That UTSE shall submit a reasonable plan regarding implementation of One-Plus intraLATA presubscription ("intraLATA toll dialing parity") with the Authority no later than November 29, 1996, and the Authority shall approve, deny, or modify such plan as soon as possible after its submission.

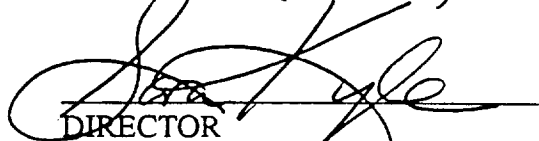
2. That upon approval of UTSE's plan regarding implementation of intraLATA toll dialing parity, the application of UTSE for a certificate of public convenience and necessity to provide interLATA interexchange telephone service is approved.

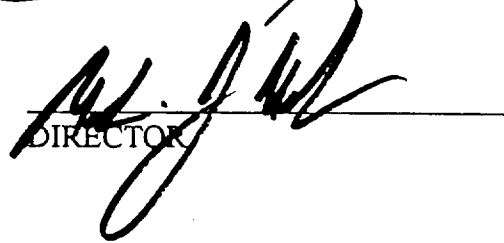
3. That any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.

4. That any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.

  
CHAIRMAN

ATTEST:

  
DIRECTOR

  
DIRECTOR

  
EXECUTIVE SECRETARY



**Sprint**

Mid Atlantic Telecom

REC'D TN  
REGULATORY AUTH.

'SS NOV 22 PM 05

**OFFICIAL FILE**

Carolina Telephone  
Centel-North Carolina  
Centel-Virginia  
United Telephone-Southeast

James B. Wright  
Senior Attorney

OFFICE OF THE  
EXECUTIVE SECRETARY

**PLEASE**

November 21, 1996

**DO NOT REMOVE**

Mr. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

RE: Docket No. 96-01235, UTSE InterLATA Certificate

Dear Mr. Waddell:

Enclosed for filing is an original and ten copies of United Telephone-Southeast, Inc.'s Petition for Partial Reconsideration of the Order issued by the Authority in the above case.

Please bring this matter to the Authority's attention.

Thank you for your service in this matter.

Very truly yours,

*James B. Wright*  
James B. Wright

JBW:mhh

Enclosures

CC: Steve Parrott  
Laura Sykora  
Bob Wallace  
John Walkup  
Roger Briney

#9121



BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

IN RE: APPLICATION OF UNITED TELEPHONE-SOUTHEAST, INC. FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
PROVIDE INTERLATA INTEREXCHANGE TELEPHONE SERVICE

DOCKET NO.: 96-01235

PETITION FOR PARTIAL RECONSIDERATION

COMES NOW United Telephone-Southeast, Inc. ("United") and asks the Tennessee Regulatory Authority ("Authority") to reconsider in part its "Order Regarding the Conditions Under Which United Telephone-Southeast, Inc. Shall be Approved For a Certificate of Public Convenience and Necessity" dated November 12, 1996 ("Order").

The practical effect of the dialing parity condition in the Order is to prohibit United from providing any interLATA interexchange telephone service until after United files and the Authority approves an intraLATA toll dialing parity plan.

United believes the Authority should limit the dialing parity condition so that it only applies to switched interLATA interexchange telephone toll service, but otherwise grant United's certificate for purposes of dedicated toll services. United believes the record clearly establishes that the issue of toll dialing parity is immaterial with respect to dedicated or private line interLATA interexchange service. In other words, intraLATA toll dialing parity may have applicability to switched

toll, but it has no impact, competitive or otherwise, for purposes of providing dedicated (non-switched) toll services.

At the hearing, the witness for the only intervenor in this case, AT&T's Mr. Guepe, indicated that AT&T would not be opposed to granting United a certificate if it pertained only to dedicated services (Transcript, page 55, copy attached). The intervenor's sole concern centered on the possible dialing benefit United may have when it provides switched toll services.

However, the Order denies United the ability to offer both switched and dedicated toll services. By barring United from responding to a customer's desire to obtain dedicated facilities, only the customer is harmed. There is no threat of competitive imbalance with respect to dedicated service.

In summary, United believes the Authority unnecessarily conditioned the provisioning of dedicated services on approval of a toll dialing parity plan, rather than having the condition apply only to switched services. Accordingly, United asks that the Authority reconsider its Order and grant United a limited certificate to provide interLATA interexchange services on a dedicated, non-switched basis until such time as its dialing parity plan is approved and a full certificate is issued.

Respectfully submitted,

United Telephone-Southeast, Inc.

Dated: November 21, 1996

By James B. Wright  
James B. Wright  
Senior Attorney  
14111 Capital Boulevard  
Wake Forest, NC 27587-5900

#9120

1 A. Yes, it does.

2 MR. LAMOUREUX: Commissioner, I move for  
3 admission of Mr. Guepe's summary and testimony into the  
4 record, subject to cross examination.

5 CHAIRMAN: Without objection, so ordered.

6 MR. LAMOUREUX: And I tender the witness  
7 for cross examination.

8 CROSS EXAMINATION

9 BY MR. WRIGHT:

10 Q. Mr. Guepe, my name is Jim Wright,  
11 representing United Telephone. Your concern for dialing  
12 parity in conditioning the grant of our certification on  
13 that, would you be opposed to the grant of a certificate  
14 if it pertained only to dedicated services?

15 A. Could you explain?

16 Q. Does your concern with dialing parity,  
17 dialing parity is a switched concern, isn't it? It only  
18 deals with switching?

19 A. I believe that's true.

20 Q. Okay. So, to the extent a certification  
21 would permit a company to provide dedicated services for  
22 enhanced services, data services, such as frame relay or  
23 ATM, your concern about dialing parity really doesn't  
24 affect our desire to offer those services, does it?

25 A. I would say that's correct.

Q. And you are aware that AT&T has received  
competitive LEC status in the state of Tennessee?

A. That's correct.